

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANTHONY FATHI,

Petitioner,

No. C 08-01548 JSW

v.

BEN CURRY, Warden,

ORDER TO SHOW CAUSE

Respondent.

Movant, Anthony Fathi, a state prisoner, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

BACKGROUND

Petitioner was convicted by a jury of murder in the second degree (Cal. Penal Code (§187), and was sentenced to 15 years to life.

LEGAL CLAIMS

Petitioner does not challenge the validity of his underlying conviction or the resulting sentence. Rather, Petitioner seeks federal habeas corpus relief by raising the claim that the California Board of Prison Terms' has violated the Due Process Clause of the 14th Amendment to the United States Constitution by its repeated denials of parole to Petitioner. Liberally construed, the claim appears potentially colorable under 28 U.S.C. § 2254 and merit an answer from Respondent.


CONCLUSION

For the foregoing reasons and for good cause shown:

1. Respondent shall file with the Court and serve on Petitioner, within 60 days of the date of this Order, an answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be issued. Respondent shall file with the answer and serve on Petitioner a copy of all portions of the administrative record that are relevant to a determination of the issues presented by the petition.
2. If Petitioner wishes to respond to the answer, he shall do so by filing a traverse with the Court and serving it on Respondent within 30 days of his receipt of the answer.

IT IS SO ORDERED.

Dated: May 8, 2008



JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE